

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 4:05-cv-00329-GKF-PJC
)	
TYSON FOODS, INC., <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION IN LIMINE TO
PRECLUDE ARGUMENT, QUESTIONING, OR EVIDENCE THAT ENTRY OF THE
REQUESTED INJUNCTION UNDER RCRA WOULD INTERFERE OR CONFLICT
WITH ONE OR MORE STATE REGULATORY PROGRAMS (Dkt. No. 2416)**

EXHIBIT 1
Steve Thompson Deposition Excerpts

PR#9833

THOMPSON, STEVE

4/7/2009

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al.,
Plaintiff,

vs. CASE NO. 05-CV-00329-GKF SAJ

TYSON FOODS, INC., et al.,
Defendants.

VIDEOTAPED DEPOSITION OF STEVE THOMPSON
TAKEN ON BEHALF OF THE DEFENDANTS
ON APRIL 7, 2009, BEGINNING AT 9:30 A.M.
IN OKLAHOMA CITY, OKLAHOMA

APPEARANCES:

On behalf of the PLAINTIFF:

J. Trevor Hammons
OKLAHOMA ATTORNEY GENERAL'S OFFICE
313 Northeast 21st
Oklahoma City, Oklahoma 73105
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On behalf of the PLAINTIFFS:

Martha Penisten
OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
707 North Robinson
Oklahoma City, Oklahoma 73107
(405) 702-7184

On behalf of the DEFENDANT-PETERSON FARMS, INC.:

Scott McDaniel
MCDANIEL, HIXON, LONGWELL & ACORD
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Tulsa, Oklahoma 74103
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REPORTED BY: Laura L. Robinson, CSR, RPR

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(APPEARANCES CONTINUED)

On behalf of the DEFENDANT-GEORGE'S, INC. AND GEORGE'S
FARMS, INC.:

Jennifer Lloyd

THE BASSETT LAW FIRM

221 North College Avenue

Fayetteville, Arkansas 72702

479-521-9996

ALSO PRESENT: Stephen Carns, Videographer

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1 THE VIDEOGRAPHER: This is the videotape
2 deposition of Steve Thompson in the matter of the
3 State of Oklahoma versus Tyson Foods, Case Number
4 is 05-CV-0329 GKF-PJC, being held at 707 North
5 Robinson, Oklahoma City, Oklahoma, on the 7th of
6 April, 2009, on record at 9:39 a.m. Counsel please
7 state your appearance for the record.

8 MR. HAMMONS: Trevor Hammons for the State
9 of Oklahoma.

10 MS. PENISTEN: Martha Penisten for DEQ.

11 MS. LLOYD: Jennifer Lloyd for George's,
12 Inc.

13 MR. MCDANIEL: Scott McDaniel for Peterson
14 Farms, Inc.
15 WHEREUPON,

16 STEVE THOMPSON,
17 after having been first duly sworn, deposes and says
18 in reply to the questions propounded as follows,
19 to-wit:

20 DIRECT EXAMINATION

21 BY MR. MCDANIEL:

22 Q. Good morning, sir.

23 A. Good morning.

24 Q. Would you state your full name for the
25 record, please.

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1 **Q.** (BY MR. MCDANIEL) All right. Are you
2 generally familiar with the Federal Solid Waste
3 Disposal Act?

4 **A.** Generally.

5 **Q.** And we often, or I shouldn't say we. It is
6 often referred to as RCRA?

7 **A.** Yes.

8 **Q.** R-C-R-A. And these, what I'm referring to,
9 these are federal environmental laws that address the
10 handling and disposal of solid and hazardous wastes.
11 Do you agree?

12 **A.** That's correct.

13 **Q.** What duties does the Oklahoma Department of
14 Environmental Quality have under these federal laws?

15 **A.** Well, we have a responsibility for the
16 proper disposal of solid waste, particularly as it
17 relates to disposal in landfills. We have a
18 responsibility, direct responsibility for disposal of
19 waste at a site that would be considered
20 an unpermitted landfill.

21 And then we have a general responsibility --
22 we have responsibility for subtitle C, which is the --
23 which is particularly related to the generation and
24 disposal of hazardous wastes.

25 **Q.** Does the state of Oklahoma have its own

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1 poultry waste in a setting in which it was being
2 packaged and sold as a nutrient.

3 We would regulate air quality, we would
4 regulate any, process water disposal, in that context
5 we would regulate it. But that's the -- well, that is
6 the context in which we would regulate it.

7 Q. (BY MR. MCDANIEL) All right. I understand
8 what you're telling me. So let me put it this way, if
9 in the practice of land applying poultry waste on
10 agricultural lands, does the Oklahoma Department of
11 Environmental Quality regulate poultry waste in that
12 setting as a solid waste?

13 A. No.

14 Q. Does it regulate poultry waste in that
15 setting as a hazardous waste?

16 MR. HAMMONS: Object to the form.

17 THE WITNESS: No.

18 Q. (BY MR. MCDANIEL) Are you generally
19 familiar with the statutes in Oklahoma that pertain to
20 the handling, storage and use of poultry waste?

21 A. It would be very general.

22 Q. Are you satisfied that the personnel at the
23 Oklahoma Department of Agriculture Food and Forestry
24 are fulfilling their statutory duties with regard to
25 regulating the handling, storage and use of poultry